

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

JARROD LOGAN DANIELS

PLAINTIFF

Case No. 1:15-cv-01024

JUSTIN CREECH, et al.

DEFENDANTS

ORDER

Plaintiff, Jarrod Logan Daniels, submitted this *pro se* action for filing on April 13, 2015. ECF No. 1. Currently before the Court are Plaintiff's failure to follow a Court Order and failure to prosecute.

On April 13, 2015, Plaintiff filed his Complaint (ECF No. 1), and the Court granted him *in forma pauperis* status ("IFP"). ECF No. 3. The IFP Order advised Plaintiff to keep the Court apprised of any address changes. Plaintiff has not communicated with the Court since the filing of his Complaint.

On September 15, 2015, Defendants filed a Motion to Compel was filed seeking an Order compelling Plaintiff to respond to Defendants' First Set of Interrogatories and Requests for Production. ECF No. 13. On October 9, 2015, the Motion to Compel was granted (ECF No. 15), and the Order was mailed to Plaintiff at the address he provided upon filing suit. This mail was returned as undeliverable on October 19, 2015. ECF No. 17. On October 20, 2015, the Court entered an Order changing Plaintiff's address to the home address he provided to the detention center when he was booked. The Court then resent the returned mail and the Order changing his address. ECF No. 18. This Order was returned as undeliverable on October 30, 2015. ECF No. 20.

On November 2, 2015, Defendants filed a Motion to Dismiss. ECF No. 21. As grounds for dismissal, Defendants state Plaintiff has failed to respond to the Court's Order of October 9, 2015 directing Plaintiff to respond to discovery, has failed to keep the Court and Defendants apprised of his current address, and has failed to prosecute the case. On November 25, 2015 Defendants filed an Amended Motion to Dismiss alleging the same grounds for dismissal. ECF No. 23. On March 3, 2016, Defendants filed a Motion to Dismiss pursuant to Local Rule 5.5(c)(2). ECF No. 27. Additionally, on March 3, 2016, Defendants filed an affidavit detailing their unsuccessful efforts to serve Plaintiff with various correspondence and pleadings. ECF No. 29.

While *pro se* pleadings are to be construed liberally, a *pro se* litigant is not excused from complying with substantive and procedural law. *See Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984). Local Rule 5.5(c)(2) states in pertinent part:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. . . . If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding pro se shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

Local Rule 5.5(c)(2) (emphasis added).

Additionally, the Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the grounds that the plaintiff failed to prosecute or failed to comply with orders of the Court. *See Fed. R. Civ. P. 41(b)*; *see also Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962) (the district court possesses the power to dismiss *sua sponte* under Rule 41(b)). Pursuant to Rule 41(b), a district court has the power to dismiss an action based on “the plaintiff's failure to comply with any Court order.” *Brown v. Frey*, 806 F.2d 801, 803–04 (8th Cir. 1986) (quoting *Haley v. Kansas City Star*, 761 F.2d 489, 491 (8th Cir. 1985)).

Plaintiff has failed to keep the Court apprised of his current address as required by Local Rule 5.5(c)(2). Plaintiff has also failed to prosecute this matter. Accordingly, pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 5.5(c)(2), the Court finds that this case should be and hereby is **DISMISSED WITHOUT PREJUDICE** for failure to comply with the Court's Local Rules and Orders and failure to prosecute this case. *See* Local Rule 5.5(c)(2); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED this 12th day of April, 2016.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge